

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
4:13-CR-32-BO

UNITED STATES OF AMERICA

V.

ALBERT RAY PURVIS, JR.

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ORDER

This matter is before the Court on defendant's motion in letter form for copies without cost. [DE 46]. The government has responded, and the matter is ripe for ruling. For the reasons discussed below, defendant's request is denied.

BACKGROUND

Defendant pleaded guilty to possession of ammunition by a convicted felon and was sentenced on November 26, 2013, to 64 months' imprisonment. [DE 36]. Defendant did not file a direct appeal. Through counsel, defendant filed a 28 U.S.C. § 2255 motion to vacate which was later voluntarily dismissed. [DE 39, 45].

On April 20, 2017, defendant filed a motion requesting free copies of the court docket and his judgment, representing that he is indigent and “in the process of submitting legal issue(s).” [DE 46].

DISCUSSION

28 U.S.C. § 2250 provides that court records may be obtained at government cost if a motion pursuant to 28 U.S.C. § 2255 has been certified as non-frivolous and the records are needed to decide the issue presented by the motion. Further, as indigent defendants have been found not to have a Constitutional right to a court documents in order to assist in filing a § 2255 motion, *United States v. MacCollom*, 426 U.S. 317, 325–26 (1976), “the Fourth Circuit requires

indigent defendants to show a ‘particularized need’” for requested documents. *United States v. Holloman*, No. 7:07-CR-8-F, 2013 U.S. Dist. LEXIS 99748, *4 (E.D.N.C. Jul. 17, 2013); *Jones v. Superintendent, Va. State Farm*, 460 F.2d 150, 152–53 (4th Cir. 1972). An indigent defendant is not entitled to court records at government expense in order to “merely [] comb the record in the hope of discovering some flaw.” *United States v. Glass*, 317 F.2d 200, 202 (4th Cir. 1963).

Defendant has made no particularized showing of a need for copies of the documents he has requested. Further, defendant has not filed a motion pursuant to § 2255, and thus no frivolity determination has been made. Defendant is entitled seek copies at his own expense, but not at the government’s.

CONCLUSION

For the foregoing reasons, defendant’s motion [DE 46] is DENIED.

SO ORDERED, this 6 day of June, 2017.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE